

Appln. No. 10/041,600
Amd. dated February 7, 2005
Reply to Office Action of October 22, 2004

REMARKS

The Office Action and cited and applied references have been carefully reviewed. No claim is allowed. Claims 1, 3, 5, 7, and 9 presently appear in this application and define patentable subject matter warranting their allowance.

Reconsideration and allowance are hereby respectfully solicited.

Claims 1-9 have been rejected under 35 U.S.C. §112, second paragraph as being indefinite. This rejection is respectfully traversed.

The recitation of MHC class II ligand is clear, as the amended claims positively recite the Markush group from which the MHC class II ligand is selected.

Regarding the metes and bounds of "derivatives thereof", the present specification on page 5, line 1 to page 6, line 6 provides a definition of what is intended by the term "derivatives thereof".

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 1-7 and 9 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. This rejection is obviated by the amendments to the claims to positively recite the Markush group of specific ligands from which the MHC class II ligand is selected.

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Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 7-9 have been rejected under 35 U.S.C. §112, first paragraph, because the examiner finds the specification, while enabling for methods of treatment, does not reasonably provide enablement for methods of prevention. This rejection is obviated by the cancellation without prejudice of the term "preventing" from the claims.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 1, 2 and 7 have been rejected under 35 U.S.C. §102(b) as being anticipated by the abstract of Makni et al., *J. Immunol.* 146(8):2522-2529 (1991) or the abstract of Azuma et al., *J. Immunol.* 149(4):115-1123 (1992). This rejection is respectfully traversed.

The examiner has cited and applied Makni for disclosure of a Jurkat leukemia cell line transfected with CD2 and Azuma for disclosure of a human NK leukemia cell line expressing the CD28 differentiation antigen. The present claims are now amended to be directed to MHC class II ligands selected from the group consisting of CD4, LAG-3 and derivatives thereof, and therefore, none of the two applied references anticipates the present claims as they do not disclose or teach CD4, LAG-3 or derivatives thereof.

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there is no disclosure in Baron of a pharmaceutical composition as presently claimed in claim 7.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 5-7 and 9 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the abstract of Altenschmidt et al., *Clin. Cancer Res.* 2(6):1001-1008 (1996). This rejection is respectfully traversed.

The examiner states that Altenschmidt teaches the specific embodiment of claim 7. However, claim 7 is amended to recite that the MHC class II ligand is selected from the group consisting of CD4, LAG-3, and derivatives thereof. Those of skill in the art would well understand that cells transduced with a chimeric T cell receptor (TCR) component may be used in cancer therapy. However, Altenschmidt teaches the use of the zeta chain of the TCR that is part of CD3. Altenschmidt does not refer to CD4 or LAG-3 or suggest their use in cancer therapy, and there is no evidence or suggestion that the same results would have been obtained with CD4 or LAG-3. Accordingly, Altenschmidt cannot make obvious the presently claimed invention.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 7 and 8 have been rejected under the judicially created doctrine of obviousness-type double patenting as being

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unpatentable over claim 9 of U.S. Patent no. 5,874,250. This rejection is obviated by the terminal disclaimer attached hereto.

In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

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